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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,984	07/28/2003	Kenji Mori	26A-008	4115
23400 7590 04/25/2007 POSZ LAW GROUP, PLC 12040 SOUTH LAKES DRIVE SUITE 101 RESTON, VA 20191			EXAMINER FREEDMAN, LAURA BETH	
			ART UNIT	PAPER NUMBER
			3616	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/25/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/627,984

Applicant(s)

MORI ET AL.

Examiner

Laura B. Freedman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 February 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10, 12, 26-30 and 35-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10, 12, 27-30, 35 and 42 is/are allowed.
- 6) ☒ Claim(s) 26, 36 and 37 is/are rejected.
- 7) ☒ Claim(s) 38-41 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 3/8/07; 4/5/07.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

1. This office action is in response to the amendment filed 18 February 2007, in which claims 10, 12, 26, 27, and 36 were amended and claims 13 and 34 were canceled.

Election/Restrictions

2. Claim 27 is allowable. The restriction requirement between species, as set forth in the Office action mailed on 04 August 2005, has been reconsidered in view of the allowability of claims to the elected invention pursuant to MPEP § 821.04(a). **The restriction requirement is hereby withdrawn as to any claim that requires all the limitations of an allowable claim.** Claims 28-30, directed to a different species is no longer withdrawn from consideration because the claim(s) requires all the limitations of an allowable claim.

In view of the above noted withdrawal of the restriction requirement, applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 26 is rejected under 35 U.S.C. 102(b) as being anticipated by Bowers et al. (6,168,190). Bowers et al. disclose an air bag device (for example, including #40) able to be used with an occupant seated in a rearmost seat (for example, including #22, 24, 26) of a vehicle (for example, including #10), wherein the rearmost seat has backrest (for example, including #24, 26) and a seat portion (for example, including #22) extending from the backrest toward the front of the vehicle, the air bag device comprising:

- Air bag (for example, including #34)
- Inflator (for example, including #32) able to supply gas to the airbag and deploy the air bag between the backrest and a rear window glass (for example, including #20)
- Side rigid portions (for example, either sliding tracks on rear window pillars, or side portions of air bag since airbag extends vertically to roof and horizontally across the entire width of the rear wall; column 2, lines 58-66) that extend in the vertical direction at the left and right sides of the air bag and are able to improve the rigidity of the air bag when the air bag is deployed (either sliding tracks or vertical side portions of the air bag would be able to improve the rigidity of the air bag when the air bag is deployed)

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 36 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bowers et al. (6,168,190) in view of Dominissini (6,688,641). Bowers et al. disclose a device (for example, including #40) able to protect an occupant seated in a rearmost seat (for example, including #22, 24) of a vehicle (for example, including #10), the device comprising:

- Movement restricting mechanism (for example, including #34), which is able to restrict the rearward movement of the occupant seated in the rearmost seat, movement restricting mechanism including:
 - Air bag (for example, including #34) deployed between the rearmost seat and a rear window glass (for example, including #20) of the vehicle (best seen in figure 3)
 - Thickness restriction mechanism (for example, seams between panels of air bag material; column 2, lines 11-17) able to restrict the thickness of the airbag (restricts thickness by connecting edges of material together) and including a plurality of closed portions (for example, along plurality of seams) formed by partially joining opposing portions (for example, panels of air bag material) of the air bag

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Bowers et al. disclose the inflator being actuated in a known manner, but they do not specifically disclose an impact determining device.

Dominissini teaches a device (including #10) for protecting an occupant seated in a rearmost seat (including #16) of a vehicle (including #12), the device comprising:

- Impact determining device (including #20) able to determine that an impact has been applied to the vehicle or that there is a possibility that an impact will be applied to the vehicle (column 4, line 64-column 5, line 1)
- Movement restricting mechanism (including #18), which is able to restrict the movement of the occupant seated in the rearmost seat based on the determination result of the impact determining device (column 4, line 64-column 5, line 1)

It would have been obvious to one skilled in the art at the time that the invention was made to modify the device for protecting a seated occupant of Bowers et al. such that it comprised an impact determining device as claimed in view of the teachings of Dominissini so as to sense an impending or presently occurring impact to determine when the occupant protection system should be deployed. Further, it is old and well known in the art to use impact determining devices, typically sensors, in this manner.

Allowable Subject Matter

7. Claims 10, 12, 27-30, 35, and 42 are allowed.

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8. Claims 38-41 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Amendment

9. The status identifier for claim 36 should be 'Currently Amended', rather than 'Previously Presented'.

Response to Arguments

10. Examiner has withdrawn the indication of allowable subject matter in canceled claims 34 and 36, and applicant's arguments with respect to claims 26, 36, and 37 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura B. Freedman whose telephone number is (571) 272-6674. The examiner can normally be reached on Monday-Friday 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (571) 272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Laura B Freedman
Patent Examiner
Art Unit 3616

LBF



PAUL N. DICKSON
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5/23/07